



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 4817 (Substitute H-1 as passed by the House)
Sponsor: Representative David Farhat
House Committee: Commerce
Senate Committee: Banking and Financial Institutions

Date Completed: 12-1-04

CONTENT

The bill would amend Revised Statute 65 of 1846 (which provides in part for the recording of conveyances by deed and the discharge of mortgages) to change the deadline for filing a discharge, and increase the penalty for failing to file a discharge or execute a certificate of release on time after a request.

Currently, a mortgagee or the mortgagee's personal representative, successor, or assign must prepare and file a discharge of the mortgage and file it with the register of deeds for the county in which the mortgaged property is located, within 90 days after the mortgage has been paid or otherwise satisfied.

In addition, if a mortgagee, or a personal representative or assign of a mortgagee, after the mortgage has been satisfied, refuses or fails to discharge the mortgage or to execute a certificate of discharge or release of the mortgage, within seven days after being requested to do so, the mortgagee is liable to the mortgagor, or the mortgagor's heirs or assigns, for damages of \$100. The mortgagee also is liable for actual damages caused by the neglect or refusal to a person who has an interest in the mortgaged property.

Under the bill, for the first two years after its effective date, a mortgage would have to be discharged, a certificate would have to be executed and acknowledged, and a discharge of a mortgage would have to be filed within 75 days. Beginning two years after the bill took effect, the deadline would be 60 days.

If a mortgagor refused or failed to discharge a mortgage or to execute and acknowledge a certificate of discharge or release within the required time period, after a request, the mortgagor would be liable for damages of \$1,000 to the mortgagor or the mortgagor's heirs or assigns (as well as actual damages to a person having an interest in the mortgaged property).

In addition, the bill provides that, if a discharge of mortgage received by a register of deeds were not recorded on the day it was received, the register of deeds would have to place on or attach to the discharge the date it was received. The date could be placed or attached by a stamp, electronically, or otherwise and would be prima facie evidence of the date the discharge was filed with the register of deeds.

MCL 565.41 & 565.44

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.